

COMMENTS ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO
AMATEUR RADIO COMMUNICATIONS

Federal Communication Commission
445 12th St., S.W.
Washington, D.C. 20554

References:

DA 12-523

GN Docket No. 12-91

**COMMENTS ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND
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To Whom It May Concern:

Dear Sir/Madam,

In response to your request for COMMENTS ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO AMATEUR RADIO COMMUNICATIONS released on April 2, 2012, it is my great pleasure to provide the following information, based on direct personal experience with Amateur Radio Service, its importance in emergency situations, and the impediments that I currently experience that limit my ability to fulfill my role as amateur radio operator in service to the community in times of emergency.

1. Importance of emergency Amateur Radio Service communications.

a. Examples of emergency Amateur Radio Service: I am currently a registered volunteer weather spotter with the Cincinnati Skywarn Weather Amateur Radio Network (www.warn.org) and with the National Weather Service (NWS) Office in Wilmington, Ohio. As volunteer weather spotter, my role is to report severe weather conditions at my location, such as damaging winds, hail, flash flooding and tornados. The NWS uses this information to issue warnings about present or impending severe weather conditions to the community, which subsequently get distributed via NOAA weather radio and public media. Everybody who lives in an area where severe weather occurs knows from personal experience how vital these timely warnings are to safeguard lives in case of approaching extreme weather. The NWS relies heavily on a network of volunteer weather spotters to provide such early warning information because current technology (weather Doppler radar) only provides information about atmospheric conditions at high elevation (cloud top level), but cannot detect the conditions at ground level. Therefore, weather spotters are the most accurate and timely source of actual severe weather information that the NWS has at its disposal to issue life-saving warnings to the population.

Personal experience in emergency situation: I can share two specific examples that clearly illustrate the importance of Amateur Radio Service in emergency situations:

- In 2005 I lived in Slidell, Louisiana, in the area directly affected by the Hurricane Katrina. While our house was spared and suffered only minimal damage, the telephone infrastructure and electrical power grid were completely destroyed. The entire area remained without electricity and telephone service (both landline and cellular) for six weeks. During that time, we had no mean of communication beyond amateur radio and satellite telephone. Amateur radio networks, supported entirely by volunteers, and working in coordination with the American Red Cross, ARES and Salvation Army, were vital in relaying important information to and from the affected region to provide such basic services as food and water delivery, delivery of medical supplies, etc.

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Incidentally, satellite telephone services proved to be almost useless as they were overloaded by the number of users attempting to access this service.

- On March 2, 2012 I was participating in the severe weather net that was activated on that date in response to the severe weather affecting Southern Indiana, Northern Kentucky and Southern Ohio. While I was very fortunate in the sense that I had no severe weather to report myself from my location, I heard numerous radio amateurs reporting tornados (developing or already on the ground) that were ravaging the area. Their reports allowed the NWS to issue tornado warnings that without doubt helped to save lives as tornados were approaching population centers in the area.

b. Advantages of Amateur Radio Service over other means of communication in emergency situations: Amateur radio service is the ideal mean of communication to deliver severe weather reports from the spotters to the NWS and has the following advantages:

- It is completely independent from public or private infrastructure such as landline telephones, cellular telephones, internet or electrical power grid, all of which can be disrupted during severe weather conditions. On the other hand, amateur radio equipment is the least likely to become disabled by severe weather conditions as most amateur radio operators have at their disposal portable (handheld or mobile) transceivers equipped with back-up power sources that can be used without the need of support infrastructure such as electrical power grid.
- The weather reports are relayed in real time, without delay, and the information is immediately available to all people who are listening to the weather network frequency. Even in case of disruption to one of the “links” in the communication chain, the information can be relayed via other participating amateur radio operators.
- Amateur Radio Service helps to prevent overloading of other public emergency radio communications services by providing a back-up communication channel for welfare and non-urgent information, allowing the public emergency radio services to concentrate on high-priority traffic.

c. Government programs using Amateur Radio: The National Weather Service is the governmental agency in charge of issuing severe weather warnings based on information provided by volunteer weather spotters. The Amateur Radio Skywarn Network aids the NWS in this role by coordinating the activities of amateur radio operators who participate in the weather spotter programs. During impending severe weather conditions, Skywarn coordinates amateur radio communications, collects severe weather reports from individual spotters and relays this information to the NWS. Cincinnati Skywarn has a direct communication link, via amateur radio, with the NWS office in Wilmington, Ohio, so that spotter reports are relayed in real time to NWS meteorologists.

When severe weather conditions are imminent, Cincinnati Skywarn activates a Severe Weather Net. The net activities are coordinated by a net control operator. The net control operator relays weather reports from individual amateur radio operators to the NWS office in Wilmington, Ohio, and relays important information from the NWS to weather spotters. Cincinnati Skywarn uses two local VHF repeaters to provide reliable coverage of the Southwestern Ohio, Southeastern Indiana and Northern Kentucky areas.

f. Training: In order to train volunteers to provide effective service as weather spotters, the NWS office in Wilmington, Ohio, holds regular training session, several times per year. The training and registration as volunteer weather spotter are free of charge. Cincinnati Skywarn works closely with the NWS office to deploy this training to all amateur radio operators who want to participate in the program. In addition, Cincinnati Skywarn helps with the maintenance of amateur radio equipment (repeaters) used during severe weather emergencies.

2. Impediments to enhanced Amateur Radio Service communications

a. Restrictions on Amateur Radio operations in my community: As many amateur radio service operators these days, I live in a suburban housing development that imposes restrictions that severely affect my abilities to provide effective service in times of emergency. Specifically, the Covenants, Conditions and Restrictions (CC&Rs) imposed by the Homeowners Association (HOA) in my community prohibit the installation of any kind of external antenna, except small satellite “dishes”, on the property or within the boundaries of the subdivision. While somebody may argue that it was my choice to buy a property in a community governed by a HOA which imposes such restrictions, or that I could have participated in the process of establishing such restrictions as a voting member of the community, the reality is that such options were not available when I moved to the Greater Cincinnati area four years ago because:

- The vast majority of housing development in the past 20 years has occurred in communities or subdivisions that are already defined as Restrictive Covenant Developments with established HOAs and pre-defined CC&Rs. The availability of good housing options outside of Restrictive Covenants Communities is very limited, and usually implies sacrificing other important services.
- HOAs and the corresponding CC&Rs are established early during the development of Restrictive Covenants Communities, when a small group of initial inhabitants establishes the rules and restrictions by which all subsequent buyers or tenants have to abide. Individual buyers who arrive to the community have no option but to accept the restrictions that are already in place. Any attempt by an individual amateur radio operator to change such restrictions requires a significant investment of time and money (to hire the services of a professional lawyer), and has practically zero chances of succeeding because amateur radio operators represent a very small portion of the populations, and have to deal with HOAs that have disproportionately bigger resources at their disposal to oppose any change to existing rules.

Therefore, stating that amateur operators like me have a choice when it comes to establishing residence in communities that impose restrictions on our operations is highly misleading. Moreover, my two children who are also amateur radio operators (callsigns KD8PFZ and KD8QJQ) were licensed after our move to the community and had no choice as to where to live and operate as radio amateurs,

The strict “no antennas” rule imposed by the HOA in my community forces me to use a handheld VHF transceiver as the only mean of communication to relay weather reports during severe weather conditions. The direct consequence is that I can only reach one of the repeaters participating in the severe weather nets in my area. The other repeater is beyond the range of a handheld radio and can only be reached with the use of a high-power transceiver (25 W or more) connected to a substantial, elevated antenna. This means that if severe weather disables the nearer of the two repeaters, I will have no means to communicate weather reports to NWS, most likely during times when my services may be needed the most. For perspective, I am the only amateur radio weather spotter in a radius of approximately 1.5 miles from my home location.

b. Reasonable vs. unreasonable restrictions: As responsible member of the community and in spirit of being a “good neighbor” I agree that HOAs should be allowed to impose reasonable restrictions on the installation of amateur radio antennas in order to protect the interests of all community members. Such restriction would ensure that amateur antennas do not represent a safety hazard, or do not adversely affect the wellbeing of other members of the community. However, the restrictions contained in the CC&Rs should not:

- Prohibit the installation and/or operation of any kind of amateur antenna

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- Impose limitations that effectively preclude the antenna from serving its intended purpose within the privileges and limitations granted to the amateur radio service operator by virtue of his/her FCC license, and especially providing emergency communication services when needed.

Restrictions such as the listed above should be considered unreasonable and prohibited by law.

Private CC&Rs should, at minimum, allow licensed amateur radio operators to erect and operate technically sound antennas that permit amateur radio operations from the operator's private home, without representing excessive monetary burden, in-line with all privileges granted in his/her license class. Ideally, private CC&Rs should not be more restrictive than the restrictions imposed by state, municipal or local public laws and building codes. Any restrictions on the size, type and location of amateur antennas should be based on solid technical principles, established either by the Commission or by a competent Amateur Radio Service organization such as the ARRL, and should include provision to allow radio amateurs not only to operate during times of emergency, but also to be able to regularly test their equipment and perform training exercises to ensure that they are ready to provide the necessary services when disaster strikes.

c. Lack of alternatives: There are no other practical alternatives to fulfill my role as amateur radio service volunteer weather spotter. Specifically:

- Operating from a public location that is not subject to restrictions on amateur radio operations would imply that I would have to leave my home and family behind and relocate to this alternate location during severe weather conditions. Also, it implies that reporting of severe weather would be restricted to the opening times of such public location, and effectively preclude reporting during all other times of the day (or night).
- Operating outdoors from an elevated location or mobile from a vehicle during severe weather conditions would represent a personal safety risk and violate the first rule that NWS teaches to all weather spotters – “first and foremost, stay safe”.
- Installation of a remotely operated relay station on a public structure that is not subject to antenna restrictions implies a significant monetary outlay on the side of the amateur radio operators that defeats the purpose of having a large network of volunteer weather spotters who can provide accurate location-specific information about actual weather conditions.

Of course, it can be argued that amateur radio operators acting as volunteer weather spotters, or supporting any other kind of emergency communications, are “optional” and that community at large can do without our services, or that such services should be limited to amateur radio operators who live outside of Restrictive Covenants Communities, or that such services are of exclusive competence of governmental or non-governmental agencies such as FEMA or the Red Cross. However, I would like to see a HOA representative explaining this to somebody who has lost a family member because timely severe weather warning was not issued due to lack of information of actual, on-the-ground weather conditions thanks to restrictions on the installation of amateur radio antennas, arguing that preserving “aesthetic qualities” of a development is more important than supporting emergency communication services.

d. Protection against “unreasonable” restriction: As described in detail above, the CC&Rs in my housing development significantly limit my ability to provide community service as volunteer severe weather spotter for the NWS. My attempts to change the CC&Rs or obtain an exception were met with a negative response from the HOA, through a formal letter from a lawyer hired for this purpose, explicitly stating that FCC's PRB-1 does not apply to private CC&Rs. My arguments that my amateur radio services could help to protect lives and property, including specific examples, were considered

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insufficient to change HOA's position on the subject, leaving me with no other possible recourse than litigation, which is beyond my financial means and which does not guarantee a positive outcome anyway.

Present situation in which FCC's PRB-1 does not cover CC&Rs, establishing that these are voluntary contracts between private parties, does not address current reality in which many amateur radio operators have no real alternative but living under CC&Rs that effectively restrict or preclude amateur radio service operation, including providing help during emergency situations

Request for action: As an amateur radio operator who tries his best to use the privileges that my amateur radio service license conveys in service to the community, I kindly request this Commission to take action to end the current situation in which private CC&Rs can effectively preclude my ability to provide emergency communication services. Specifically, I ask the Commission to enact a law that will protect amateur radio operators from unreasonable restrictions in private CC&Rs, and enable licensed radio amateurs to erect antennas to provide emergency communication services to the community.

I want to sincerely thank the Commission for initiating this public inquiry and for giving me the opportunity to express my opinion as amateur radio operator who is interested in using the privileges that the FCC has granted to me in service to the community and who, like many other amateur radio operators, is directly affected by extremely restrictive and unreasonable CC&Rs in my place of residence.

Kind regards.

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